

REMARKS

Reconsideration is requested. Claims 1, and 4-9 are pending. Responsive to the Office Action of June 2, 2006, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

Independent claim 1 has been amended to recite that the claimed composition of matter includes "a solid support" and that the "bibulous positively charged substrate is configured as a membrane test pad and is affixed to the solid support" (support at, for example, page 5, lines 16-17 and page 9, lines 22-23 of the specification).

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

Double Patenting Rejection under 35 U.S.C. §101

The subject matter of claim 1 was rejected as claiming the same invention as claim 9 of U.S. Patent No. 6,420,128 B1 (hereinafter the '129 Patent). Applicants submit that claim 1, as amended, does not claim the same invention as claim 9 of the '128 Patent. For example, amended claim 9 recites the presence of a solid substrate and that the bibulous positively charged substrate is configured as a membrane test pad affixed to the solid support. These features of the recited subject matter are not present in claim 1 of the '129 patent. Therefore, Applicants submit that claim 1 is allowable under 35 U.S.C. 101.

Claim Rejections under 35 U.S.C. §102

The subject matter of claims 1 and 4-9 was rejected under 35 U.S.C. §102(b) as anticipated by Sock et al. (hereinafter "Sock").

Sock, as understood, describes the use of "transfer membranes," to which enzymes are transferred by a "blotting" from a gel (see the abstract and the final paragraph on page 310 of Sock). The blotting transfer is described as a diffusion-based or electrophoresis-based transfer (see final paragraph of page 310 and 3rd full paragraph on page 313 of Sock).

Amended claim 1 recites the presence of a "solid substrate" and that the "bibulous positively charged substrate is configured as a membrane test pad affixed to the solid support." This configuration is particularly beneficial in terms of facilitating the direct application of a physiological sample to the membrane test pad in a variety of settings including home testing (see, for example, page 1, line 21 and page 11, line 26 through page 12, line 1 of the specification). Sock does not appear to describe, teach or suggest the use of a solid substrate or that a bibulous positively charged substrate should be configured as a membrane test pad on such a solid substrate.

For at least the foregoing reasons, Applicants respectfully submits that independent claim 1 is novel and not obvious over Sock. Since dependent claims 4-9 depend from, and further limit claim 1, they are allowable for at least the same reasons.

CONCLUSION

Applicants respectfully request that, in light of the explanations above, the Examiner will reconsider and withdraw her rejections. Applicants respectfully submit that the claims are in condition for allowance. In the event that minor claim amendments are necessary to meet formal requirements, Applicants invite the Examiner to telephone the undersigned at direct dial 408 956-4790 so that issuance can be expedited.

Respectfully submitted,

/Mayumi Maeda/

By: _____
Mayumi Maeda
Reg. No. 40,075

Johnson & Johnson
International Patent Law Division
Attention Philip Johnson
P.O. Box 1222
New Brunswick, NJ 08903
(408) 956-4790
Dated: November 28, 2006